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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130919816-4205-02]

RIN 0648-BD70

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustments to 2014 Annual Catch Limits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This action adjusts 2014 annual catch limits (ACLs) for the Atlantic herring (herring) fishery to account for catch overages and underharvest in 2012. NMFS is decreasing three of the four ACLs and increasing one ACL. This results in a reduction to the overall catch available to the herring fleet.

DATES: Effective [insert date of publication in the FEDERAL REGISTER], through December 31, 2014.

ADDRESSES: Copies of supporting documents, 2013-2015 Specifications/Framework 2 and Amendment 4 to the Herring Fishery Management Plan (FMP), are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465-0492. These documents are also accessible via the Internet at <http://www.nero.nmfs.gov>.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978- 281-9233.

#### SUPPLEMENTARY INFORMATION:

##### Background

The herring harvest in the United States is managed under the Herring FMP developed by the New England Fishery Management Council (Council), and implemented by NMFS. The Herring FMP divides the stock-wide herring ACL among three management areas, one of which has two sub-areas. It divides Area 1 (located in the Gulf of Maine (GOM)) into an inshore section (Area 1A) and an offshore section (Area 1B). Area 2 is located in the coastal waters between Massachusetts and North Carolina, and Area 3 is on Georges Bank (GB). The Herring FMP considers the herring stock complex to be a single stock, but there are inshore (GOM) and offshore (GB) stock components. The GOM and GB stock components segregate during spawning and mix during feeding and migration. Each management area has its own sub-ACL to allow greater control of the fishing mortality on each stock component.

Amendment 4 to the Herring FMP (76 FR 11373, March 2, 2011) revised the Herring FMP to address ACL and accountability measure (AM) requirements. As a way to account for ACL overages in the herring fishery, Amendment 4 established an AM that provided for overage deductions in the year immediately following the catch overage determination. If the catch of herring exceeds any ACL or sub-ACL, NMFS will subsequently deduct the overage from the corresponding ACL/sub-ACL in the year following the catch overage determination.

Amendment 4 also specified that NMFS will announce overage deductions in the Federal Register prior to the start of the fishing year, if possible.

We published a final rule for Framework 2 and the 2013-15 specifications on October 4, 2013 (78 FR 61828). Among other measures, Framework 2 allows for the carryover of unharvested catch in the year immediately following the catch determination. Up to 10 percent of each sub-ACL may be carried over, provided catch did not exceed the stock-wide ACL. The carryover provision allows a sub-ACL increase for a management area, but it does not allow a corresponding increase to the stock-wide ACL. The management area sub-ACLs established in the specifications for 2014 are: 31,200 mt for Area 1A, 4,600 mt for Area 1B, 30,000 mt for Area 2, and 42,000 mt for Area 3 (Table 1).

#### Final Adjustment to the 2014 Annual Catch Limits

In accordance with regulations at § 648.201(a) (3), this action adjusts 2014 sub-ACLs for the herring fishery to account for catch overages and underharvest in 2012. We completed the 2012 catch determination in August 2013, so we will apply the adjustments for any overharvests or carryover in 2012 to the 2014 sub-ACLs. In 2012, the herring fleet underharvested the stockwide ACL of 90,683 mt by 122 mt. However, the fleet overharvested the sub-ACLs in herring management Areas 1B (overage of 1,584 mt); 2 (overage of 336 mt); and 3 (overage of 1,325 mt). In 2014, after deducting each 2012 overage, the sub-ACL for Area 1B will be 3,016 mt (4,600 mt reduced by 1,584 mt); the sub-ACL for Area 2 will be 29,664 mt (30,000 mt reduced by 336); and the sub-ACL for Area 3 will be 40,675 mt (42,000 mt reduced by 1,325 mt) (Table 1).

The herring fleet underharvested the sub-ACL from Area 1A by 3,366 mt (approximately 12 percent of the 2012 Area 1A sub-ACL of 27,668 mt). Since the fleet did not exceed the stock-wide ACL in 2012, we will carry over 10 percent of the 2012 Area 1A sub-ACL to the

2014 Area 1A sub-ACL. After adding the carryover from the 2012 sub-ACL, 2014 Area 1A sub-ACL will be 33,967 mt (increased by 2,767 mt, equal to 10 percent of the 2012 Area 1A sub-ACL of 27,668 mt) (Table 1).

**Table 1. Herring Management Area 2014 Herring Quotas (mt)**

Area	2014	2014 Adjustment
Area 1A	31,200	33,967
Area 1B	4,600	3,016
Area 2	30,000	29,664
Area 3	42,000	40,675

After deducting the overages and adding the carryover amount to the sub-ACLs, the total catch available to the herring fleet is reduced by 477 mt. The summary of the proposed rule incorrectly stated it was increased. The background section clearly noted, however, the overall catch may not increase as a result of carryover. The methods for determining the final 2012 catch rates and subsequent 2014 adjustments were discussed in detail in the proposed rule and are not repeated here (78 FR 70009, November 22, 2013).

#### Comments and Responses

NMFS received no comments on this action.

#### Changes from the Proposed Rule

There are no changes from the proposed rule.

#### Classification

The Administrator, Northeast Region, NMFS, determined that this final rule is necessary for the conservation and management of the herring fishery and that it is consistent with the MSA and other applicable law.

The National Environmental Policy Act analyses to support this action were completed in

Amendment 4 (76 FR 11373, March 2, 2011) and 2013-2015 Specifications/Framework 2 (78 FR 46897, August 2, 2013).

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this rule and establish the date of publication in the Federal Register as the effective date for this action because delaying the effectiveness of the rule is contrary to the public interest and impracticable. The 2014 herring fishing year began on January 1, 2014. To prevent confusion and potential overharvests, it is in the best interest of the fleet and the herring resource to have the proper sub-ACLs in place immediately. Accordingly, any delay in the rule's effectiveness would undermine the conservation objectives of the MSA and the Herring FMP, which would be contrary to the public interest.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration (SBA) at the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number

of small entities. No comments were received on this certification, and no other information has been received that would change the determination. As a result, a Final Regulatory Flexibility Analysis is not required, and none was prepared.

Authority: 16 U.S.C. 1801 et seq.

Dated: March 13, 2014

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Eileen Sobeck,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

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